

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

June 14, 2007

Call To Order: Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Timothy A. Hodson, and Bob Leidigh were present. Commissioners Gene Huguenin and Ray Remy were absent.

Item #1. Public Comment. This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

There was no public comment.

Item #2. Approval of the May 10, 2007, Commission meeting minutes.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to adopt the May Commission meeting minutes.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #3. In the Matter of Robert J. Matkovich and Robert J. Matkovich, D.D.S., Inc., FPPC No. 04/249. Respondent Robert J. Matkovich, a licensed dentist, and his dental corporation, Respondent Robert J. Matkovich, D.D.S., Inc., located in Chula Vista, were the true source of 21 contributions totaling \$5,250, made to the campaign committee of Chula Vista mayoral candidate Steve Padilla between December 5, 2001, and September 4, 2002. The contributions were made in the names of employees and business associates of Respondent Matkovich, or their friends and family, in violation of Section 84301 of the Government Code (21 counts). In addition, Respondent Robert J. Matkovich made prohibited cash contributions to candidate Steve Padilla on or about September 3 and 4, 2002, in violation of subdivision (a) of Section 84300 of the Government Code (1 count).

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of 22 counts and a ninety-nine thousand dollar (\$99,000) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #4. In the Matter of L. Scott Spahnn and Associates' and Leslie Scott Spahnn, FPPC No. 05/436. Respondents L. Scott Spahnn and Associates, a registered lobbying firm, and Leslie Scott Spahnn, a registered lobbyist, failed to file three quarterly lobbyist firm reports in paper format, in violation of Sections 86114 and 86117 of the Government Code (3 counts), and three quarterly lobbyist firm reports electronically, in violation of subdivision (d) of Section 84605 of the Government Code (3 counts).

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of 6 counts and a six thousand four hundred dollar (\$6,400) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #5. In the Matter of Christie Stanley, FPPC No. 07/112. Respondent Christie Stanley, Assistant District Attorney for the County of Santa Barbara, failed to timely disclose information regarding an investment interest on her 2002 annual statement of economic interests, filed on or about March 21, 2003, in violation of Section 87300 of the Government Code.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a three hundred dollar (\$300) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #6. In the Matter of Joseph Edmiston, FPPC No. 06/990. Respondent Joseph Edmiston, a member of the Santa Monica Mountains Conservancy, et al., failed to timely file his 2005 annual statement of economic interests in violation of Section 87302 of the Government Code.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a one hundred dollar (\$100) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #7. Failure to Timely File Major Donor Campaign Statements. The following entities have entered into a stipulation for failing to file major donor campaign statements that were due during calendar years 2005 and 2006, in violation of Section 84200 of the Government Code:

- a. **In the Matter of National Audubon Society, Inc., FPPC No. 06/1146.** The National Audubon Society, Inc., of Emeryville, failed to timely file semi-annual campaign statements disclosing contributions totaling \$100,000 in 2005 and \$10,000 in 2006.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of two counts and a one thousand eight hundred dollar (\$1,800) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

- b. **In the Matter of Stephen J. Luczo, FPPC No. 06/0749.** Respondent Stephen J. Luczo of Scotts Valley, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$100,000 in 2006.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a one thousand four hundred dollar (\$1,400) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

- c. **In the Matter of Kosti Shirvanian/Komar Investments/Chino Industrial Commons, LLC/Pacific Waste, Inc., FPPC No. 07/0113.** Respondent Kosti Shirvanian/Komar Investments/Chino Industrial Commons, LLC/Pacific Waste, Inc., of Newport Beach, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$19,500 in 2006.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a four hundred dollar (\$400) monetary penalty.
AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

- d. In the Matter of Frank G. Myers, FPPC No. 07/0225.** Respondent Frank G. Myers of Atherton, failed to timely file semi-annual campaign statements disclosing contributions totaling \$21,200 in 2005.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of two counts and a of eight hundred dollar (\$800) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

- e. In the Matter of Susan Myers, FPPC No. 07/0242.** Respondent Susan Myers of Atherton, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$11,200 in 2005.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a four hundred dollar (\$400) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #8. Failure to Timely File Late Contribution Reports – Proactive Program. The following persons have entered into a stipulation for failure to file a late contribution report in 2004, 2005 or 2006 in violation of Section 84203 of the Government Code:

- a. In the Matter of The Sturdevant Law Firm, A Professional Corporation, FPPC No. 05/0712.** The Sturdevant Law Firm, A Professional Corporation of San Francisco failed to timely disclose a late contribution totaling \$150,000.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a three thousand five hundred dollar (\$3,500) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

- b. In the Matter of Bridge Housing Corp., FPPC No. 07/0197.** Respondent Bridge Housing Corp., of San Francisco failed to timely disclose a late contribution totaling \$17,500.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a two thousand six hundred twenty-five dollar (\$2,625) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

- c. In the Matter of Gale Marshall, FPPC No. 07/0231.** Respondent Gale Marshall of Livermore failed to timely disclose a late contribution totaling \$10,200.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a one thousand five hundred thirty dollar (\$1,530) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

d. In the Matter of Benjamin C. Hammett, FPPC No. 07/0232. Respondent Benjamin C. Hammett of Palo Alto failed to timely disclose a late contribution totaling \$10,000.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve a decision and order finding a violation of one count and a one thousand five hundred dollar (\$1,500) monetary penalty.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #9. Adoption of Amendments to Regulations 18361.2 and 18361.4 - Staff Attendance at, and record of, Closed Session Deliberations on Civil Enforcement Litigation. Staff proposed the adoption of amendments to Regulations 18361.2 and 18361.4, concerning the Commission's closed session deliberations on whether to initiate civil litigation in enforcement cases, as follows: (1) Requiring the General Counsel or an attorney from the Legal Division to review the memorandum provided to the Commission by the Executive Director; (2) Requiring the General Counsel or an attorney from the Legal Division and the Commission Assistant to attend the closed session; (3) Requiring the recording, rather than the transcription, of specified communications made at the closed session.

Moved by Commissioner Hodson and seconded by Commissioner Leidigh to adopt amendments to Regulations 18361.2 and 18361.4 with technical non-substantive changes suggested by Commissioner Leidigh.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #10. Adoption of Regulation 18531.62 - Elected State Officeholder Bank Accounts; Amendment of Regulations 18544 - Biennial Adjustments, and 18545 - Contribution Limit and Voluntary Expenditure Ceiling Amounts. In 2006, Senate Bill 145 took effect as urgency legislation. SB 145 amended the "net debt" provision of the Act to permit the establishment of a separate officeholder account for officeholder expenses. In January 2007, emergency regulations were enacted by the Commission. The issues addressed in this proposal for permanent adoption included establishment of officeholder bank accounts, committees and reporting; contribution cumulation; the winding down of officeholder committees; and biennial adjustments to the limits.

Moved by Commissioner Hodson and seconded by Commissioner Leidigh to adopt Regulation 18531.62 and amendments to Regulations 18544 and 18545 with minor changes to Regulation 18531.62 suggested by Commissioner Leidigh.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #11. Prenotice Discussion of Amendment to Regulation 18440 – Telephone Advocacy. Staff proposed new Regulation 18440 interpreting the Act's disclosure requirements for telephone calls paid for by a candidate, committee, or slate mailer organization in Section 84310 of the Government Code. This proposed regulation clarifies the disclosure statement required if (1) calls are paid for by a person at the behest of a candidate or committee and if (2) calls are

paid for or authorized by multiple candidates, committees, and slate mailers.

Staff recommended adding a disclaimer to subdivision (b) stating the call was or was not authorized by the candidate. Commissioner Leidigh suggested that the staff consider adding a definition for the phrase “similar in nature.” Charles H. Bell, Jr. with Bell, McAndrews & Hiltachk, LLP suggested that the Commission consider whether the regulation, as drafted, would regulate telephone calls that were “issue advocacy.”

Moved by Commissioner Hodson and seconded by Commissioner Leidigh to approve noticing of the regulation and direct staff to consider Commissioner Leidigh’s and Charles Bell’s concerns when the regulation is proposed for adoption.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #12. Payments by Sponsors for Fundraising Events Held by Sponsored Committees.

Staff presented a draft advice letter for Commission review, responding to questions from Charles H. Bell, Jr. with Bell, McAndrews & Hiltachk, LLP on the treatment of various expenditures related to the fundraising activities of sponsored committees.

Lance H. Olson with Olson Hagel & Fishburn LLP came before the Commission to request the Commission address the interpretation of subdivision (c) of Section 85303 of the Government Code as indicated in his comment letter dated June 12, 2007. Mr. Bell came before the Commission to express the importance of this issue and to propose to advance the pre-notice discussion as suggested in his comment letter dated June 12, 2007.

Moved by Commissioner Hodson and seconded by Chairman Johnson to approve the Advice Letter as proposed. Commissioner Leidigh asked the regulated community to provide their version of a regulation and provide a memo with their rationale.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #13. June 2007 Work Plan Revisions. Staff proposed various revisions to the 2007 regulatory calendar.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve 2007 Calendar with the addition of Regulation of 18215(c)(16) suggested by Commissioner Leidigh.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #14. Legislative Report. Staff: Legislative Coordinator Whitney Barazoto.

There was no discussion.

Item #15. Litigation Report. Staff: General Counsel Scott Hallabrin.

There was no discussion.

Item #16. Executive Director’s Report. Staff: Executive Director Michael B. Salerno.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to approve the schedule of future Commission meetings through February 2008.

AYES: Commissioners Leidigh, Hodson, and Chairman Johnson. The motion passed 3-0.

Item #17. Chairman's Report. Staff: Chairman Ross Johnson.

The Chairman pointed out the ninety-nine thousand dollar (\$99,000) fine imposed in the matter of Robert J. Matkovich and Robert J. Matkovich, D.D.S., Inc., is an indication on how serious the Commission takes intentional violations of the act for offenses such as cash contributions and contributions through intermediaries to conceal the true donor. The Chairman stated the Commission intends to crack down on these types of violations and that the Enforcement Division, in addition to working to reduce its case backlog, had formed a task force to concentrate their efforts on these types of intentional violations.

Chairman Johnson adjourned open session at 11:05a.m.; advising the Commission would immediately go into closed session.

The Commission returned to open session at 11:58a.m. Chairman Johnson advised that no reportable action was taken in closed session, and adjourned the meeting.

The meeting was adjourned at 12:00p.m.

Dated: June 25, 2007

Respectfully submitted,

Approved by:

Ross Johnson
Chairman